

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
Case No. 00-6273-CR-HUCK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARIEL HERNANDEZ, et al.,

Defendants,

MOTION TO MODIFY PRE-TRIAL DETENTION ORDER

THE DEFENDANT, ARIEL HERNANDEZ, by and through the undersigned counsel, respectfully moves this Honorable Court for entry of an Order Modifying the terms of the Pre-Trial Detention Order, and in support thereof would state:

1. The defendant is charged in a multi-count Indictment with various charges centering around RICO allegations as well as Conspiracy to Commit Violent Crimes in Aid of Racketeering (Murder) and with the substantive offense of Violent Crimes in Aid of Racketeering (Murder).
2. The Defendant is also charged with First Degree Murder, in State v. Ariel Hernandez, Case No. 99-5930-CF-10A, in the Circuit Court of the 17th Judicial Circuit, Broward County, Florida. The murder alleged in the Instant Indictment is the exact same murder alleged in the State charges.
3. Since being transferred from State custody to Federal Custody, the Defendant has been held in the Special Housing Unit of the Federal Detention Center (FDC). His co-defendants have been moved to general population.
4. On or about October 5, 2000 Magistrate Judge Garber conducted a pre-trial detention hearing for this and other co-defendants. Ultimately the Defendant was ordered pre-trial detained.

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However, the Report and Recommendation that was ultimately entered additionally directed that the Defendant be segregated from other inmates.

5. During the course of the pre-trial detention hearing, the Government neither sought nor presented, nor argued that the Defendant should be segregated from other inmates. In fact, this particular issue was not addressed in any fashion.

5. Subsequent discussions with Government's counsel, revealed that this segregation provision was most likely included in the proposed Report and Recommendation inadvertently.

WHEREFORE, the Defendant respectfully moves this Court to enter its Order permitting the Defendant to be placed into general population at the Federal Detention Center.

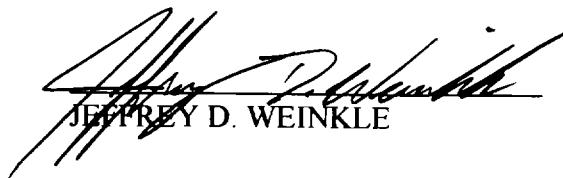
WRITTEN STATEMENT PURSUANT TO RULE 88.9 LOCAL RULES OF THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

THE UNDERSIGNED COUNSEL, for the above named Defendant hereby certifies that he has conferred with Assistant United States Attorney Lawrence LaVecchio, who initially indicated that he did not have an objection to the relief sought herein. However, Mr. LaVecchio did request additional time to confer with his co-counsel and others. The undersigned has again attempted to confer with Mr. LaVecchio, however he was unavailable for comment.

WHEREFORE, the motion filed with this statement are unresolved.

Respectfully submitted,

JEFFREY D. WEINKLE, Esq.



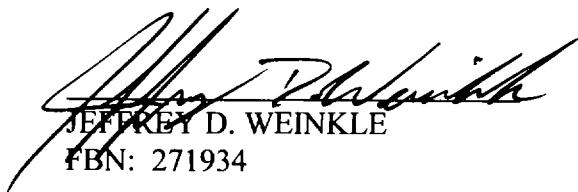
JEFFREY D. WEINKLE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed/delivered this
17 Day of December, 2000 to: United States Attorney's Office, AUSA LAWRENCE
LaVECCIO, 99 N.E. 4th Street, Miami, FL 33132; and to all counsel of record.

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